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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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07/11/2005

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EXAMINER

KENNEDY, JOSHUA T

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,283

Applicant(s)

BRENNFLECK, MATTHIAS
MICHAEL

Examiner

Joshua T. Kennedy

Art Unit

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JK

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/17/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/17/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-18 have been examined.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statement filed 07/19/2004 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; **(3) the application number of the application in which the information disclosure statement is being submitted on each page of the list;** **(4) a column that provides a blank space next to each document to be considered, for the examiner's initials;** and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation " the diagonally opposing sides " in the adjustment element. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-7. and 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Farrell (British Patent No. 1,359,480).

Referring to Claim 1. O'Farrell discloses a connection element for detachable connection of adjacent component parts, especially for shelving-type systems, said element comprising:

Several jaw sidewalls oriented in different directions (Fig 5), whereby two jaw sidewalls at a time can be braced against each other to hold a component part, whereby at least one jaw sidewall (6) is carried adjustably on the connection element (5) and projects by a lateral leg (11) into an inside of the connection element (5); and

An active connection with an adjustment element activated from an outside thereof (16) in a direction to brace or detach the jaw sidewall (6).

Referring to Claim 2. O'Farrell discloses a connection element, wherein by activation of the lateral leg (11), the jaw sidewall (6) can be rotated around a rotational axis (7) on a housing of the connection element (5).

Referring to Claim 3. O'Farrell discloses a connection element wherein said adjustment element is an eccentric (6), (the adjustment element mentioned here and the adjustable jaw sidewall as demonstrated by O'Farrell are one in the same) that is set in bearings (7) so as to be rotatable.

Referring to Claim 4. O'Farrell discloses a connection element wherein said adjustment element is set in bearings so as to be rotatable via cylindrical guide surfaces (7) in the connection element (5).

Referring to Claim 6. O'Farrell discloses a connection element wherein said adjustment element enters into a self-locking brace with the lateral leg (Fig 1).

Referring to Claim 7. O'Farrell discloses a connection element wherein said adjustment element is in active connection with 2 lateral legs (8) which are allocated to different jaw sidewalls (Fig 2).

Referring to Claim 9. O'Farrell discloses a connection element wherein the adjustable jaw sidewalls lie opposite a rigid jaw sidewall (2).

Referring to Claim 10. O'Farrell discloses a connection element further comprising: at least two adjustment elements arranged approximately coaxially above each other (Fig 4).

Referring to Claim 11. O'Farrell discloses a connection element wherein said adjustment element is activated through an opening of the other adjustment element (16).

Referring to Claim 12. O'Farrell discloses a connection element wherein said adjustment elements are activated by a variable sized Allen-type wrenches (16).

Referring to Claim 13. O'Farrell discloses a connection element further comprising: on the activation side of the at least one adjustment element, a cover with an opening that functions for the guidance of a wrench for adjusting the adjustment element (16).

Referring to Claim 14. O'Farrell discloses a connection element wherein said lateral leg has an offset opposite the eccentric that is not allocated thereto to said lateral leg (Fig 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Farrell. O'Farrell discloses the claimed invention except for the radial play of the guide surface. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the bearing element as disclosed by the applicant to have a bearing of the guide surface with a radial play of approx. 0.4 millimeter to approx. 1 millimeter as such is a design consideration to one skilled in the art, since a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Farrell in view of Kristiansen (U.S. Patent No. 4,185,410).

Referring to Claim 15. O'Farrell discloses the claimed invention except for spacers being clamped or made to catch on the jaw sidewalls.

Kristiansen teaches a spacer element (1) that can be clamped in the recesses (5) of the jaw sidewall or made to catch (8) on the jaw sidewall, to be "capable of gripping the upper edge of the base plate...locked between a pair of blocks... adapted to be clamped on the studs of the base plate" (Col 2, Lines 20-35)". It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a spacer element adaptable to interact with the connection element of O'Farrell to be capable of gripping the upper edge of the base plate (jaw sidewall), locking

between a pair of blocks, or adapting to be clamped on the studs of the base plate, as taught by Kristiansen.

Referring to Claim 16. O'Farrell in view of Kristiansen disclose a connection element according to claim 15, wherein said spacers capable of being clamped in recesses of at least one jaw sidewall.

Referring to Claim 17. O'Farrell discloses the claimed invention except for spacers have a bent extension on part of their edge.

Kristiansen also discloses said spacers having a bent extension or a hinge (6) with a rotating bracket (7) on part of an edge, to be "provide for a swingable mounting (Col 2, Lines 36-37)" of a block or equivalent thereof. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a spacer element adaptable to interact with the connection element of O'Farrell, to provide for a swingable mounting of a block or equivalent thereof, as taught by Kristiansen.

Referring to Claim 18. O'Farrell in view of Kristiansen disclose spacers have a hinge with a rotating bracket on part of their edge.

Kristiansen further discloses said spacers having a bent extension or a hinge (6) with a rotating bracket (7) on part of an edge.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,288,892 to Franz cited to show a similar connection element having an eccentric locking device

U.S. Patent No. 4,301,636 to Luria cited to show a similar connection element used for releasably joining planar elements.

U.S. Patent No. 5,083,512 to Newhouse, et al cited to show the use of spacers in a connection element.

U.S. Patent No. 5,833,417 to Sargent, et al cited to show a connection element having perpendicular brackets for clamping.

U.S. Patent No. 6,503,655 to Mazhar cited to show a fastener having an eccentric as its activation element.

U.S. Patent No. 4,131,376 to Busse cited to show a fitting for detachable connecting structural parts having an eccentric.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua T. Kennedy whose telephone number is (571) 272-8297. The examiner can normally be reached on M-F: 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTK
06/02/2005

Adron Dunwoody
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